

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

SAMIR TAHA,

Plaintiff,

Civil No. 07-1160-HA

v.

ORDER

CENTRAL INTELLIGENCE AGENCY;  
GEORGE BUSH, President of the United  
States; MICHAEL HAYDEN, Director, Central  
Intelligence Agency; ROBERT MUELER,  
Director, Federal Bureau of Investigations;  
MICHAEL MUKASEY, Attorney General of  
the United States, individually and in their  
official capacities; and unnamed federal officials.

Defendants.

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HAGGERTY, Chief Judge:

Plaintiff's Complaint alleges constitutional conspiracy claims against the Central Intelligence Agency (CIA), the President of the United States, and various federal agency

directors. Plaintiff seeks declaratory and injunctive relief, a name-clearing hearing, a monthly salary for the rest of his life and punitive damages, stemming from the alleged racial and religious discrimination engaged in by the federal government in conspiracy with numerous local organizations. Defendants moved to dismiss this action [7] for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1).

In considering a motion to dismiss under Rule 12(b)(1), the court is not limited to the facts asserted in the complaint, nor is the court required to assume the truthfulness of the factual allegations within the complaint. *Americopters, LLC v. FAA*, 441 F.3d 726, 732 n.4. (9th Cir. 2006). The party asserting jurisdiction bears the burden of proving that the court has subject matter jurisdiction over his claims. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377 (1994).

Here, plaintiff alleges that defendants have engaged in unlawful surveillance or wiretapping activities, Plaintiff alleges that he has been spied upon by the CIA and subject to illegal wiretaps since 1983. Plaintiff claims that he has experienced racial and religious discrimination in numerous ways. He generally asserts that the CIA and certain unidentified “Jewish organizations” have conspired with Portland State University (PSU) and Vergil Miller (the former Dean of PSU’s business school), to “destroy” his academic standing, deny him entry into a masters degree program, and blacklist him with potential employers. He next alleges that the CIA conspired with the Immigration and Naturalization Service to “freeze” his citizenship application for approximately seven years, ending in 1993 when he became a U.S. citizen. The alleged conspiracy continued in 2001 and 2002, when the CIA contacted IOS, his leasing company, and convinced IOS to change the terms of his lease and force him out of business.

Plaintiff claims that the CIA convinced his accountant to falsify plaintiff's tax return, convinced Wells Fargo to close his bank accounts, blocked plaintiff's efforts to refinance his home, and somehow caused lenders to charge him high interest rates. Plaintiff claims that he suffered a stroke because of the stress brought about by the CIA's interference. Finally, plaintiff claims that his recent attempt to open a restaurant has either failed or been frustrated because the CIA has wiretapped his telephones and scared his customers away. Plaintiff contends that the CIA has conspired with Jewish organizations and has taken all of these actions in violation of the Fourth Amendment and the Foreign Intelligence and Surveillance Act (FISA) because he is an Arab Muslim.

"Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suits." *FDIC v. Meyer*, 510 U.S. 471, 475 (1994). Sovereign immunity is jurisdictional. *Id.* This Court lacks subject matter jurisdiction over a constitutional claim against a federal agency. To the extent plaintiff attempts to introduce other federal officials, sovereign immunity also shields individual federal officers named in their official capacities. *Gilbert v. DaGrossa*, 756 F.2d 1455, 1458-59 (9th Cir. 1985). To the extent plaintiff names other federal officials in their individual capacities, no respondeat superior liability exists for alleged constitutional violations. *Terrell v. Brewer*, 935 F.2d 1015, 1018 (9th Cir. 1991).

Similar claims involving citizens who suspected that a federal agency had engaged in unlawful surveillance or wiretapping activities based upon nothing but a personal belief have been dismissed as "fantastic" or "delusional" pursuant to Fed. R. Civ. P. 12(b)(1). *See e.g. Carone-Ferdinand v. CIA*, 131 F. Supp. 2d 232, 234-36 (D.D.C. 2001) (dismissing as

insubstantial under 12(b)(1) “bizarre conspiracy theory” involving frivolous claims against CIA); *O’Brien v. Dept. of Justice*, 927 F. Supp. 382, 385 (D. Ariz. 1995) (holding “bizarre” and “wholly insubstantial” allegations against federal agency cannot confer jurisdiction); *O’Connor v. United States*, 159 F.R.D. 22, 26 (D. Md. 1994) (dismissing frivolous claims alleging unlawful DEA surveillance and persecution).

Accordingly, defendants' motion to dismiss is granted because this action is "so attenuated and unsubstantial as to be absolutely devoid of merit," "wholly insubstantial" and "obviously frivolous." *Hagans v. Lavine*, 415 U.S. 528, 536-537 (1974).

### **CONCLUSION**

For the foregoing reasons defendants' Motion to Dismiss [7] is GRANTED for lack of subject matter jurisdiction, and this case is dismissed with prejudice.

IT IS SO ORDERED.

Dated this 4 day of December, 2007.

/s/ Ancer L. Haggerty

Ancer L. Haggerty  
United States District Judge